

**TOWN OF SOUTH BETHANY
TOWN COUNCIL WORKSHOP MINUTES
SEPTEMBER 28, 2022
5:00 p.m.**

Meeting Called to Order

Mayor Saxton called the September 28, 2022, Town Council Workshop Meeting to order at 5:00 p.m.

Attendance and Absences

In attendance were Mayor Tim Saxton and Councilmembers Derek Abbott, Randall Bartholomew, Bob Biciocchi, Edie Dondero, Tim Shaw; and Town Manager Maureen Hartman, and Town Clerk Matt Amerling. Councilmember Dick Oliver was absent. Public attendee: 23, remote attendees: 12.

Public Comment

Diann Nazarian, 20 Peterson Drive, does not support the outdoor living area proposal for setbacks as she thinks most houses are too close together as it is.

Steve Bunoski, 417 Victoria Drive, stated this proposal will lead to the diminishment of property values, and with placing certain things in the backyard, if another storm like Hurricane Sandy comes along, it will go into someone else's property and most likely cause structural damage. As Chairman of the Town Board of Adjustment, Mr. Bunoski stated this also runs the risk of setting precedent such as someone wanting a gazebo or a shed in the setback.

Philip Amoruso, 118 Petherton Drive, said having something like this may increase the property value but it will also raise your property taxes. Mr. Amoruso would also question what insurance agencies would cover such things, and the entire community should be more involved with the process of this ordinance.

Frank Spingler, 47 S. Anchorage Drive, asked if fire pits would be limited to wood burning. Councilman Derek Abbott said they would consider gas as well. Mr. Spingler stated he's surprised the Town would consider permitting more wood burning fire pits with as much wind as this area gets, and the risk of embers spreading is too great. Mr. Spingler said his concern are wood burning fire pits and he would like Council to consider limiting it to gas fire pits.

Steve Chantler, 422 Tamarack Drive, said a main focus should be on how this will affect everyone in Town and not just some in a certain area. Another consideration should be insurance premiums because they're not going down, as well as privacy, safety and how this will affect the eco-system.

E.J. Braida, 111 Brandywine Drive, said her concern is if her neighbor decided to build a pergola or fireplace twelve feet (12') tall – and there's no restrictions on how wide it can be – the neighbor could have the pergola run the entire length of the setback area, and Ms. Braida has a wall blocking her view.

Tom Rossberg, 110 Petherton Drive, said he has a wood burning fire pit in his back yard and after they have a fire in said fire pit, they extinguish the fire, and being safe or unsafe isn't going to stop people from being stupid. Mr. Rossberg said he agrees with enjoying your property to its full extent. Mr. Rossberg stated he is concerned about water runoff but once it goes down, it's all going into the canal. Mr. Rossburg supports this proposal.

John Beauregard, 108 Petherton Drive, supports the outside living area proposal and finds it appropriate given the fact if there's another epidemic, like COVID, a lot of people like to spend their time outside and people want to use their backyard for entertainment. He is surprised there so

many people against this proposal. Mr. Beauregard requested Council not throw this proposal out in its entirety.

Carl Bittenbender, 141 Layton Drive, said he is on the Charter & Code Committee (C&CC), worked on this proposal and appreciates everyone's comments. Mr. Bittenbender said he wanted to echo Mr. Beauregard's comments that the Committee could take comments from tonight and go back to drafting it with the ideas and concerns being addressed tonight. Mr. Bittenbender discussed what is currently written in the Code as permitted. Mr. Bittenbender further stated what C&CC is trying to do is craft some code to allow those things that are only permitted on a portable basis, to have a little more aesthetic appeal and a little more investment by the property owner, as they get put in the back yard. Mr. Bittenbender said he holds multiple construction licenses, he's been in the business 20 years and by trade, he's also a fire chief and a fire investigator, having investigated over 500 fires. None have been caused by a fire pit being used properly, or a grill being used properly; it's when they're unattended or they're improperly used, and that's going to happen whether this ordinance is adopted or not.

Jack Whitney, 105 Boone Road, said he objects to this proposal due to twelve-foot high pergolas, twelve-foot high chimneys – particularly along the canals, and he doesn't like the way the setbacks are defined in this proposal. He doesn't mind hardscape that's low hardscape and he doesn't mind fire pits if they are located on your property so it doesn't impact a neighbor's property. Mr. Whitney doesn't want to see fire pits or kitchens that are really close to a neighbor's property, even three feet from the setback when the side is too close to an adjoining property.

Marlin Van Horn, 12 S. Anchorage Avenue, said he never wants to disturb any place near the bulkhead. He understands people wanting amenities but is concerned about having precise language in the Code keeping whatever is built back near the bulkheads within certain limits as to not cause any damage.

Chris Whisted, 146 Brandywine Drive, likens this proposal to the garbage bin enclosures, of which about probably 98% sit on the property line. The containers are there and there is no setback so why should backyards have such a setback? Mr. Whisted stated he is support of the proposal.

Pam Kropf, 135 Henlopen Drive, said she supports the consideration for privacy, safety on the ecosystem, as well as insurance premiums, and she is concerned about the 12-foot height of objects, such as a pergola, and she believes the three feet is way too close to the bulkhead. We already have the water run-off and storms that occur with water over the bulkhead and we need to be thinking about the problems the Town already has. Ms. Kropf thinks the Code the way it is currently written is OK, and we don't need to have permanent structures.

Mike DiMuzio, 141 New Castle Drive, agrees with everyone who has opposed this proposal, particularly with the woman from Brandywine Drive (E.J. Braida). It's beautiful to look down the canal and see all the houses and boats, but by allowing 12-foot pergolas, we could lose the unification of communicating with neighbors and passersby.

Discussion about the changes to setback/structure provision of the Town Code to allow limited outdoor living areas (Abbott)

Mayor Saxton appreciated everyone's comments and thinks this proposal made Council truly take a look at what goes on down the canals and everywhere. There are already sections of canals where trees line where the bulkhead is located, and the bulkhead is destroyed by the roots. Mayor Saxton said, because it was brought up, regarding the garbage bin enclosures, this Council tried very hard to have property owners put the enclosures onto their actual property as opposed to in the right-of-way, and Council got a ton of pushback from property owners, even though the right-of-way is not their land. Mayor Saxton is concerned about this proposal in that it deals with the rear yard, where a person can't see what's being built.

Councilman Bob Biciocchi said the language he saw circulated at the last meeting hasn't really changed, but he still has the same concerns about public safety and he thinks there needs to be a governance around the Code. Councilman Biciocchi thinks public safety is the number one issue, with environmental impact being another issue, and sustainable relationships between neighbors is certainly an issue as well.

Councilwoman Edie Dondero said she had strong reservations when this was first introduced, and seeing it now, with hardly any changes, she still has strong reservations against this proposal. Councilwoman Dondero said her reservations are mostly due to the same reasons Councilman Biciocchi listed: visual impacts, impacts on neighboring properties, safety issues. Councilwoman Dondero said she's also concerned about water quality impacts, in that adding more structures and more impervious surface to our properties is not going to help with the canal water quality issue. Councilwoman Dondero asked the Town Code Enforcement Officer about requests for what would be allowed under this proposed ordinance, and he told her there have been only four (4) requests from residents over the last couple of years. Councilwoman Dondero is opposed to the proposal.

Councilman Tim Shaw said he was the chairman of the C&CC when they were asked to take a look at this, and was a part of writing this proposal. Councilman Shaw said the idea was to give people more flexibility but not to actually let them do more than they're doing now other than to try to do it more professionally. Councilman Shaw said this proposal allows things he's never been very happy about, such as the notion of how close the setback edges are to the canals. Councilman Shaw votes no to the proposal.

Councilman Randy Bartholomew said he thinks all the feedback that he's received is pretty much similar to the other Council members in that no one he spoke to was in favor of it. Councilman Bartholomew said a lot of the concern was not only the setbacks, but that the Town would be setting a precedent for other people; so, at this time, he cannot support this proposal.

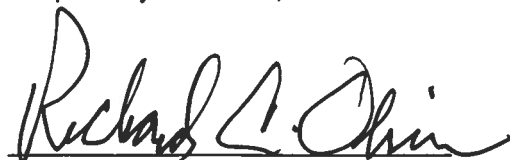
Mayor Saxton said he has a problem with this because it's basically changing setbacks from 8 feet to 5 feet, and he just can't agree to it. Mayor Saxton further stated outside of the few people here tonight, he's heard no one else speak in support of this proposal; and he doesn't see how the Town will be able to do this and keep it equitable throughout the entire Town. Mayor Saxton said he cannot support this proposal as it's currently written.

Councilman Abbott said he would like to go back and craft some kind of compromise, but he doesn't want to go back to C&CC and waste everyone's time if this just won't be accepted. Councilman Abbott asked if he should even move forward with this proposal and try to "shape" it into an ordinance the public may find more favorable. Mayor Saxton thinks it would be very difficult to draft something which would get approved by this particular Council. Council said he should not bring this back to C&CC.

Adjournment

Motion by Councilwoman Dondero, seconded by Councilman Biciocchi to adjourn the September 28, 2022, Town Council Workshop meeting at 6:03 p.m. Motion carried 6-0.

Respectfully submitted,


Council Secretary


Town Clerk

10/14/22
Date of Approval